

## REMARKS

### ALLOWABLE SUBJECT MATTER

Applicant acknowledges the Examiner's determination that claims 44, 46 and 47, if they are rewritten in independent form to include the limitations of the claims from which they depend, would be allowable.

### CLAIM SUGGESTIONS

Applicant thanks the Examiner for the claim suggestions provided in the Office action. Applicant has amended claims 30, 39 and 43 in response to the claim suggestions. A discussion of the amended claims is presented below.

### CLAIM REJECTIONS - 35 U.S.C. § 103

#### *Claims 30, 31 and 39*

Claims 30, 31 and 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2003/0058894 attributed to Feuerstraeter et al. (*Feuerstraeter*) in view of U.S. Patent No. 6,973,031 issued to Kalkunte et al. (*Kalkunte*). Applicant submits claims 30, 31 and 39 are not obvious in view of *Feuerstraeter* and *Kalkunte* for at least the reasons set for below.

The Office action states that independent claims 30 and 39 would be allowable over the prior art of record if amended to distinguish over traditional port aggregation, as depicted in *Kalkunte*. Claims 30 and 39 have been amended to recite ***automatically*** aggregating multiple media access controllers (MACs), based, at least in part, on the identified communication capability of the remote device, as suggested in the Office action. Thus, Applicant respectfully submits claims 30 and 39, as amended, are patentable in view of the prior art, including

*Feuerstraeter* and *Kalkunte*. Claim 31 depends from claim 30. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant submits claim 31 is patentable over the prior art of record for at least the same reasons as discussed above with respect to claim 30.

Claims 32-36, 40, 41 and 43

Claims 32-36, 40, 41 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Feuerstraeter* and *Kalkunte* and further in view of U.S. Patent No. 6,169,729 issued to Feuerstraeter (*Feuerstraeter 2*). Applicant submits claims 32-36, 40, 41 and 43 are patentable for at least the reasons set forth below.

Claims 32-36 depend from claim 30. Claims 40 and 41 depend from claim 39. As discussed above, claims 30 and 39 as amended are patentable in view of the prior art. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant submits claims 32-36 and 40-41 are patentable over the prior art of record for at least the same reasons as discussed above with respect to claims 30 and 39.

The Office action states that claim 43 would be allowable if rewritten to address the two issues discussed in the “Claim Suggestions” section of the Office action. First, Applicant has amended claim 43 to address automatic aggregation of the plurality of media access controllers (MACs). Second, Applicant has amended claim 43 to recite establishing “**either** a 10 gigabit per second (Gb/s) physical channel **or** a sub-10Gb/s virtual channel within the 10Gb/s physical channel” to force an interpretation that the controllers have the ability to establish **both** a 10 Gb/s channel and a sub-10Gb/s channel. Thus, Applicant submits claim 43, as amended, is patentable over the prior art of record.

### Claim 37

Claim 37 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Feuerstraeter* in view of *Kalkunte* and further in view of “Comparison of Rate Control Methods,” by Howard Frazier of Cisco (*Frazier*). Applicant submits claim 37 is not obvious in view of *Feuerstraeter* and *Kalkunte* and further in view of *Frazier* for at least the reasons set forth below.

Claim 37 depends from claim 30 and necessarily includes the limitations of claim 30. As discussed above, claim 30 is patentable in view of *Feuerstraeter* and *Kalkunte* for at least the reason that *Feuerstraeter* and *Kalkunte* fail to teach or disclose automatically aggregating multiple media access controllers based at least in part on the identified communication capability of the remote device. *Frazier* is cited as disclosing 802.3x based frame rate control. Whether or not *Frazier* teaches the limitations cited in the Office action, *Frazier* does not teach or disclose automatically aggregating multiple media access controllers. Thus, *Frazier* fails to cure the deficiencies of *Feuerstraeter* and *Kalkunte*. Therefore, Applicant respectfully submits claim 37 is not obvious in view *Feuerstraeter*, *Kalkunte* and *Frazier*.

### Claims 38, 42 and 45

Claims 38, 42 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Feuerstraeter*, *Kalkunte*, *Feuerstraeter 2* and further in view of “802.3ae 5 Criteria,” referenced by “Chair’s Introductory Remarks” at IEEE 802.3 10Gb/s Task Force July 2000 Plenary Week and “XAUI/XGXS Proposal” presented at IEEE 802.3 10Gb/s Task Force May 2000 Interim Meeting Plenary Week, July 11-12, 2000. Applicant submits claim 28, 42 and 45 are not obvious in view of the above cited references for at least the reasons set forth below.

Claims 38, 42 and 45 depend from independent claims 30, 39 and 43, respectively. As discussed above, claims 30, 39 and 43 are patentable in view of the prior art of record. The “802.3ae 5 Criteria” and “XAUI/XGXS Proposal” documents do not cure the deficiencies of

*Feuerstraeter*, *Kalkunte*, and *Feuerstraeter 2* in the independent claims. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant respectfully submits claims 38, 42 and 45 are patentable for at least the same reasons as discussed above with respect to claims 30, 39 and 43.

CONCLUSION

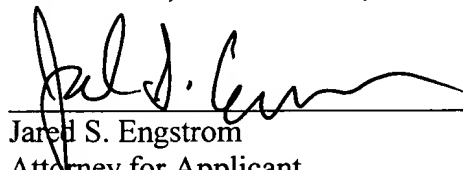
In view of the amendments and remarks set forth above, Applicant submits that claims 30-47 are in condition for allowance and such action is respectfully solicited. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

Date: \_\_\_\_\_

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